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Examination No. 06-0288.3

Court File No. CA 04-960-SLR

(District of Delaware)

IN THE UNITED STATES DISTRICT COURT

B E T W E E N:

J-SQUARED TECHNOLOGIES, INC., a Canadian Corporation, and

J-SQUARED TECHNOLOGIES (OREGON) INC., an Oregon Corporation

PLAINTIFFS

- and -

MOTOROLA, INC. A DELAWARE CORPORATION

DEFENDANT

DEPOSITION OF CLAUDE LANGLOIS, pursuant to an appointment
made on consent of the parties to be reported by
Cornell•Catana Reporting Services, on March 22, 2006,
commencing at the hour of 9:13 in the forenoon.

APPEARANCES:

COURT COPY

Sean J. Bellow

for the Plaintiffs

Randy Papetti and Emily S. Cates

for the Defendant

This Examination was taken down by sound recording
by Janice West at Ottawa, Ontario, Canada.

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1 In our business, we need to invest from a Demand
2 Creation Standpoint, all the up-front cycles which can
3 take six, 12, 18 months, depending on the customer's
4 design cycle. We, as a commission Rep Firm are not paid
5 for that time. We get paid when product gets sold.

6 If we have to take the business through
7 distribution, they make 25 points Gross Margin, J-Squared
8 makes five points for instance, from a commission
9 standpoint. Hard to justify. I mean, if it's palatable
10 -- there's got to be volume involved. So that was my
11 thought process at that time.

12 Q. So that's what you're explaining here to your
13 Superiors?

14 A. Yes.

15 82. Q. That and the fact that there may be some
16 additional benefits to the relationship with Motorola
17 such as tag-along lines. It might help get additional
18 lines -- or at least Interphase?

19 A. That's correct.

20 83. Q. So that's September 19th. Let's move forward
21 slowly. Let me give you the next exhibit and we'll mark
22 it Exhibit 129.

23 **EXHIBIT NO. 129:** E-Mail exchange between Claude
24 Langlois, Larry Terry, Mike Nykoluk and Jeff
25 Gibson in September, 2002.

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1 A. I see account names here.

2 118. Q. Yes, and if you follow the spreadsheet
3 across, more POS data for the Canadian market exclusive
4 of those accounts?

5 A. Yes.

6 119. Q. It has a figure through September but with a
7 couple of October entries of \$901,630? Is that how you
8 read it?

9 A. That's how I'd read it. That's how I'd read
10 it, yes.

11 120. Q. Do you recall Mr. Terry providing you the
12 data showing about \$901,000 for the first three Quarters
13 of 2002?

14 A. I do not.

15 121. Q. Does that number ring a bell?

16 A. Nope.

17 122. Q. Let's go to the next one. That one was dated
18 -- the last one we looked at -- Exhibit 130 was dated
19 October 25. Let's mark the next one.

20 EXHIBIT NO. 131: E-mail dated October 28 from
21 Claude Langlois to Jeff Gibson and Mike Nykoluk
22 regarding MCG Numbers with attachment.

23 BY MR. PAPETTI:

24 123. Q. Exhibit 131 is an e-mail from you to Mr.
25 Gibson and Mr. Nykoluk dated October 28, 2002? Is that

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1 correct?

2 A. That is correct.

3 124. Q. And the caption of the -- or at least the
4 subject of the e-mail is MCG Numbers?

5 A. Correct.

6 125. Q. The first page of data you provided, it looks
7 like it's the POS information for 2001 sales in Canada by
8 accounts? Is that correct?

9 A. That seems correct.

10 126. Q. It has that same figure we just saw on the
11 information Mr. Terry sent to you -- the \$3,864,555?

12 A. I don't have the document.

13 127. Q. I'm sorry. You've got to go to the second
14 page of the spreadsheet?

15 A. That is correct -- the same number.

16 128. Q. So indicating about \$3.86 million in sales
17 for 2001 in the territory that Motorola was proposing to
18 J-Squared? Correct?

19 A. Yes.

20 129. Q. If you follow through the rest of the data,
21 at the last page there's that same grand total figure of
22 \$901,630.45 that we saw in the prior Exhibit as well?

23 A. Correct.

24 130. Q. That was the POS data for the Canadian
25 market?

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1 A. Again, correct -- I would only assume that
2 the -- was Harris out, Tracan was out, Nortel -- so one
3 would assume that these were out.

4 131. Q. Yes, I believe they are still out but the
5 proposal Motorola was making at the time was that J-
6 Squared would not be paid for Nortel sales or Harris
7 sales or Tracan sales? Is that correct?

8 MR. BELLEW: Objection.

O

9 THE WITNESS: That is not correct. Tracan -- I
10 don't recall Tracan not being part of the deal.

11 BY MR. PAPETTI:

12 132. Q. Okay, do you recall Nortel and Harris not
13 being part of the deal at the outset?

14 A. I certainly recall Harris because we had to
15 go back and renegotiate Harris.

16 133. Q. Do you have a memory one way or the other
17 about Nortel?

18 A. I don't want to assume here so I don't
19 recall.

20 134. Q. But the POS data that they provided you for
21 whatever it's missing was it for about \$901,000 through
22 September for that territory? Correct?

23 A. Start of Jan. -- through what period of time?

24 135. Q. It's through September?

25 A. There are two entries here for September, so

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1 then is what you're telling me? You assume it was from
2 Motorola but you don't know from who?

3 MR. BELLEW: Objection. You can answer the
4 question.

O

5 THE WITNESS: I will assume it came from
6 Motorola.

7 BY MR. PAPETTI:

8 157. Q. But my question is you don't know who at
9 Motorola you got it from?

10 A. I do not recall.

11 MR. BELLEW: Objection.

O

12 THE WITNESS: I do not recall specifically who
13 from.

14 BY MR. PAPETTI:

15 158. Q. Let's go back to Exhibit 130 then?

16 A. Yes.

17 159. Q. Mr. Terry tells you that this data he's given
18 you is exclusive of three accounts, Harris, Nortel and am
19 I saying it right -- Tracan?

20 A. Tracan.

21 160. Q. Tracan, right -- is that correct?

22 A. That's correct.

23 161. Q. And Mr. Terry tells you that the sales
24 through September exclusive of those accounts is only
25 \$901,630.45? Correct?

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1 A. You mean based again on this report?

2 162. Q. Yes, that's what he tells you in this Report,
3 right?

4 A. Seems to be the case.

5 163. Q. Which is significantly down according to this
6 report from what Motorola sales in the territory were for
7 2001 exclusive of the same accounts? Correct?

8 A. Yes.

9 164. Q. They'd gone from 3.864 million in 2001 to
10 roughly on path for about 1.2 million in 2002? Is that
11 correct?

12 A. That seems to be correct.

13 165. Q. You were aware of that when you got this from
14 Mr. Terry and looked at it?

15 A. Yes. The way that that was explained --
16 there's one reality in Embedded Space which is different
17 from a Semi-Conductor Standpoint for instance where you
18 have run rate business in the Semi-Conductor space,
19 typically customers will take -- I'll use an example,
20 10,000 units a month and that's run rate of business. In
21 Embedded Space, that is different because you have
22 Programs and customers will typically buy a lot for a
23 build and that may happen two or three times a year and
24 that's it -- that's that.

25 So I founded that out fairly early that there was

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1 a main difference between Embedded and where I had been -
2 - the space I'd been for the last 17 years, Semi-
3 Conductor where there's no such thing in the Embedded
4 Space as Run Rate Business. So it's not abnormal to have
5 -- and I see this from a revenue number as I track our
6 revenue number, we could be definitely down one quarter
7 and the next quarter pops because that's the buy cycle
8 for our customers. So I realized that fairly early.

9 166. Q. As I understand what you're saying is it's
10 different to extrapolate from the first three quarters
11 number what's going to happen in the next quarter?

12 A. Agreed. You have to look at the last period
13 -- the last 12 months. You know, in order to get a good
14 handle.

15 167. Q. What was your understanding at the time of
16 how Motorola had done in the last 12 months in this
17 territory? Is it good or bad?

18 A. The last -- it was not as good as it was.
19 That was a clear understanding. That was the cornerstone
20 for Motorola's strategy changing from a channel
21 standpoint. The Canadian number was going down the
22 tubes.

23 168. Q. Relatively speaking?

24 A. Relatively speaking and that's why they
25 wanted to set up this new strategic approach from a

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1 channel standpoint.

2 169. Q. What do you mean, a channel standpoint?

3 A. Reps.

4 170. Q. How you sell your product?

5 A. Exactly, how you go to market. Either direct
6 which incurs overhead, fixed costs versus Reps which is
7 variable costs.

8 171. Q. When you were investigating potential ESG
9 lines and doing due diligence into the potential Motorola
10 relationship, what were you learning about the overall
11 status of the ESG Market in Canada at or about that time?
12 Late 2002?

13 A. We felt -- I felt there was a trend. I felt
14 that our traditional Semi-Conductor Accounts, not unlike
15 Nortel for instance, let's use them as an example if we
16 wish. We're migrating from a home grown, home design
17 approach to an off the shelf approach, i.e. embedded --
18 that we realized and that was based on Staff Reduction
19 timed to market pressures, R and D Expenditures going --
20 collapsing basically -- if you recall the Telecom
21 collapse back then.

22 172. Q. That was -- the Telecom collapse was at least
23 in the short term, a bad thing for the ESG business?

24 A. It was a bad thing for the entire High Tech
25 business.

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- 1 173. Q. But including the ESG Business?
- 2 A. Including the ESG Business.
- 3 174. Q. Do you recall, other than Exhibit 130 and
- 4 Exhibit 131, receiving any other written historic
- 5 information from Motorola about the Canadian territory
- 6 that Motorola was proposing to J-Squared?
- 7 A. What time frame?
- 8 175. Q. Prior to signing the Agreement in December of
- 9 2002?
- 10 A. I do not. I may have but I do not recall.
- 11 176. Q. You don't have any particularly in mind?
- 12 A. I can't say I do.
- 13 177. Q. How about any written Forecasts as to what
- 14 Motorola might be forecasting for the market in 2002,
- 15 2003, 2004? Do you recall getting any written Forecasts?
- 16 A. I don't recall any.
- 17 178. Q. Let's talk about verbal or oral now for a
- 18 minute. In late September we had some discussions about
- 19 Motorola suggesting that they would send J-Squared
- 20 historic sales figures for the territory, J-Squared being
- 21 hesitant at first to accepting them? Is that correct?
- 22 A. That is correct.
- 23 179. Q. By the end of October, Motorola was providing
- 24 some historic data -- sales data to J-Squared? Correct?
- 25 A. Correct.

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1 180. Q. Presumably because some progress had been
2 made towards potentially investing in the relationship on
3 both sides? Is that fair?

4 A. That would make sense.

5 181. Q. Do you recall discussions with the Motorola
6 people about whether its the sales people or the contract
7 people -- whoever -- anyone at Motorola about what they
8 thought J-Squared might be able to do in the market going
9 forward?

10 A. Yes.

11 182. Q. Do you recall them discussing ---

12 A. Hold on, with Motorola people. Let me take
13 that back. I don't recall any specific conversation to
14 that level.

15 183. Q. So, no-one at Motorola told you we have a
16 Forecast showing we're going to do "x" million in this
17 market next year or the year thereafter?

18 A. Not that I recall?

19 184. Q. Did you do any forecasting prior to signing
20 the Motorola -- you didn't sign it -- I apologize, prior
21 to J-Squared signing the Motorola Agreement, did you or
22 anyone else at J-Squared do forecasting to your knowledge
23 as to what J-Squared thought the Motorola sales in the
24 territory would be in 2003 or 2004?

25 A. That would be practically impossible. We've

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1 been asked to do this before as new lines come about and
2 we're asking them, put a small business plan together in
3 which we would forecast, you know, our sales number and
4 the obvious answer there is, how do we know?

5 We don't have your line. We don't know your
6 account base. Therefore we don't know their Programs and
7 where they're in within their life cycle -- their Program
8 life cycle, so it's practically impossible to do so.
9 That's my opinion.

10 185. Q. Do you feel that anyone from Motorola
11 misrepresented to you what sales figures J-Squared and
12 Motorola could expect to achieve in Canada in 2003 or
13 2004?

14 A. I got the -- our initial -- my initial data
15 point with regards to sales came from internal -- came
16 from J-Squared. I wasn't part of the initial meetings
17 between Motorola. I was still taking care of our Semi-
18 Conductor Group. So when we started having the
19 discussions internally as to whether or not it would make
20 sense for us to spin off a new group, that's where I got
21 the data from initially.

22 186. Q. Internally?

23 A. Internally.

24 187. Q. And then eventually you get some data from
25 Mr. Terry, that we just looked at but that's historic?

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1 Correct?

2 A. It is historic and that is only for a partial
3 period of time as we assessed.

4 188. Q. You had 2001 data? Correct?

5 A. Yes.

6 189. Q. And nine months of 2002 roughly? Correct?

7 A. Correct.

8 190. Q. Did you ask for any data from Motorola
9 regarding historic sales or potential future forecasts
10 that they refused to share that you can recall?

11 A. Not that I can recall.

12 191. Q. Let me give you what's previously been marked
13 in the case as Exhibit 85 which will explain why there's
14 a big "85" at the top of the page?

15 A. Do you need this?

16 MR. BELLEW: No.

17 THE WITNESS: Okay. Where are we, October 28th.

18 Yes.

19 BY MR. PAPETTI:

20 192. Q. Mr. Langlois, Exhibit 85 is right around the
21 time frame of when you're sending your superiors the
22 historic information? Correct?

23 A. Correct.

24 193. Q. Maybe even the same day it looks like, and
25 it's -- this e-mail has some back and forth between you

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1 and a Jeanne Kolasa at Motorola regarding provisions in a
2 draft contract between Motorola and J-Squared? Is that
3 correct?

4 A. That seems to be correct.

5 194. Q. Do you recall who Jeanne Kolasa was?

6 A. Jeanne Kolasa was -- my understanding was
7 Contract Manager for MCG. That's my understanding.

8 195. Q. So she was on the contract side as opposed to
9 the sales side? Is that fair?

10 A. I think that's fair.

11 196. Q. Did you -- you had a meeting. It refers to a
12 meeting in the e-mail at the top of the page between you
13 and Ms Kolasa I take it in Toronto?

14 A. That is correct.

15 197. Q. Do you recall that meeting?

16 A. I do recall the meeting.

17 198. Q. Where was that meeting?

18 A. Where was that -- at J-Squared.

19 199. Q. At J-Squared in Toronto?

20 A. In our Conference Room in Toronto.

21 200. Q. Is -- Ms Kolasa is not based in Toronto? Is
22 that correct?

23 A. That is correct.

24 201. Q. And she flew up to meet with you?

25 A. Correct.

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1 202. Q. For what purpose, do you recall?

2 A. To address some of the contract issues.

3 203. Q. So, were you the Chief Negotiator on the
4 actual contract for J-Squared?

5 A. I was the point person.

6 204. Q. You were the point person -- okay. Then you
7 were reporting back to other people at J-Squared on these
8 issues?

9 A. Correct.

10 205. Q. Who was your main contact by the time you got
11 to addressing contractual issues at Motorola? Your main
12 contact at Motorola?

13 A. Who was my main contact -- well, based on
14 this e-mail, obviously Jeanne was the person that seemed
15 responsible for going back to her people. If you notice
16 I kept people who had a stake in this involved on the e-
17 mail trace, i.e. Larry Terry and Ed Kaczor and of course
18 my management which only makes sense. So I would have to
19 answer the question with -- it's very likely that Jeanne
20 Kolasa was the person responsible or the point person on
21 behalf of Motorola.

22 206. Q. Do you -- there's a number of provisions that
23 are discussed in here where you're going back and forth?

24 A. Yes.

25 207. Q. Do you actually recall, other than looking at

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1 the e-mail, do you actually recall any specific
2 contractual issues you were negotiating with Ms Kolasa or
3 anyone else at Motorola?

4 A. I mean they're here.

5 208. Q. I mean, that's why I said -- I want to -- if
6 they're on paper, I can just read them but I mean, do you
7 actually have any memory I can explore as to these
8 particular issues?

9 A. Sure.

10 209. Q. Okay?

11 A. Yes.

12 210. Q. Well let's talk about some of them. There's
13 this issue at the bottom of the e-mail on top about
14 whether the Agreement would be automatically renewed or
15 whether it would expire after a year and have to be --
16 renew a written agreement? Correct?

17 A. Right.

18 211. Q. Do you recall that issue?

19 A. I do recall that issue.

20 212. Q. What can you recall about the discussions on
21 that issue with Motorola?

22 A. I'll start by saying that the overall
23 contract negotiations with Motorola was extremely
24 painful. It probably lasted I will say four weeks if not
25 five, whatever. I have since then and prior to that have

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1 never gone through such a lengthy negotiation with any of
2 our manufacturers.

3 213. Q. So it was extended -- you recall that?

4 A. It was extremely arduous and difficult.

5 214. Q. What do you recall about that? Was it they
6 were slow getting back to you or they couldn't make up
7 their mind or you guys couldn't come to an agreement, I
8 mean, can you give me any more specifics about ---

9 A. I would say all of the above. All the above.

10

11 215. Q. Okay. We were talking -- I asked you what
12 you remembered about this automatic renewal versus
13 expiration issue?

14 A. Yes.

15 216. Q. What do you remember about that issue?

16 A. That was a big issue for J-Squared.

17 217. Q. Okay?

18 A. Quite unusual from a contract -- from a Rep
19 Contract standpoint -- quite unusual. It literally stuck
20 out so needless to say I tried very, very, very hard to
21 get that addressed and change the premise being is this a
22 long term relationship -- yes, no.

23 We were told a number of times that indeed it was
24 a strategic long term relationship that Motorola wanted
25 to put in place in the Canadian market place, therefore

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1 I'm going -- if that's the case, why do we have this
2 clause which from my perspective based on my past
3 experience was totally, totally, unusual.

4 218. Q. So you tried to get this changed with
5 Motorola and ultimately Motorola refused to take it out
6 of the contract? Is that correct?

7 A. That is correct.

8 219. Q. Do you remember who you actually had
9 conversations with at Motorola about that issue? I mean,
10 probably Ms Kolasa? Is that correct?

11 A. Definitely so. I recall having a conference
12 call, perhaps more than one, and you will ask who was on
13 the conference call, wouldn't you?

14 220. Q. If you ask me, I'm going to ask you?

15 A. I cannot state without any doubt who else was
16 on that call. I know we had a conference call and
17 instead of speculating I'd rather say nothing.

18 221. Q. So J-Squared wanted the contract to
19 automatically renew and Motorola was hesitant to do that
20 and ultimately Motorola would not agree? Is that
21 correct?

22 MR. BELLEW: Objection.

O

23 THE WITNESS: The end result was that Motorola
24 did not agree.

25 BY MR. PAPETTI:

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1 222. Q. And J-Squared knew that at the time that the
2 contract was signed?

3 A. Here's where we're coming from. You've got a
4 small company called J-Squared and you've got what I like
5 to phrase or call a 4,000 pound gorilla called Motorola
6 Corporate and after going back and forth a number of
7 weeks and as from a local standpoint, the Larry Terrys,
8 the Ed Kaczors and the Claude Langlois were trying to get
9 this out of the way so we can finally embark and get this
10 ball rolling, you just go off and being told a number of
11 times -- don't worry, you know, this is a long term
12 endeavour, you know, it's corporate stuff, blah, blah,
13 blah -- after a number of weeks you go, okay, let's get
14 this done and move forward.

15 223. Q. So by the time it got done, J-Squared was
16 aware that the automatic renewal provision that it wanted
17 had not been included in the contract? Correct?

18 A. We were aware.

19 224. Q. Now in terms of these discussions about the
20 long term relationship ---

21 A. Yes.

22 225. Q. Tell me more about those. Who were those
23 with?

24 A. I vividly recall conversations with Larry
25 Terry at the very front end of our discussions and for a

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1 number of reasons.

2 226. Q. Very front end -- you mean like back in
3 September-ish?

4 A. Back in September-ish -- whenever -- correct.
5 Where there were two reasons why this was very important
6 to me to understand whether or not this indeed was a long
7 term situation. One from a company perspective. We're
8 embarking in this new endeavour -- quote, unquote. We
9 will spend money getting this ESG Group up and going, so
10 there was a company side of it.

11 There was a personal side of it -- me. I'm
12 making a shift here from a career standpoint. I'm in a
13 Director of Eastern Canada position where I've got 20 -
14 30-ish people reporting to me, either directly or
15 indirectly. I've got three offices reporting in to me.
16 I'm managing a reasonable number. Right?

17 So the financial pressures are still there.
18 Don't get me wrong, but I don't have to worry about cash
19 flow and so on and so forth? Right? Relatively
20 speaking. Now I'm being asked to move on to a spin off.
21 Let's start this from scratch.

22 So I had to make sure from my own -- yours truly
23 right here that this indeed was a solid relationship, or
24 else I never would have made this move. Why have the
25 risk when I already had a job basically -- right and was

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1 relatively okay. So I would have had those conversations
2 fairly early -- September-ish -- let's say that with the
3 likes of Larry, definitely so -- definitely so.

4 227. Q. Do you recall any other discussions beside
5 the discussions with Mr. Terry about Motorola's general
6 intent with the Program?

7 A. I recall specifically, right here in this
8 room, we had a meeting with our Semi-Conductor Sales
9 People and this was the first time our Semi-Conductor
10 People were introduced to Motorola. Basically the first
11 time they were meeting an Embedded Manufacturer.

12 I recall having a discussion with Larry, saying
13 Larry, let's hype it up. Let's make sure our Semi-guys
14 are excited about this as much as I am, and if you've
15 ever spoken with Larry Terry, you probably understand
16 that he can hype it up whenever he's expected to do so.

17 So, as part of his opening comments, on behalf of
18 Motorola in front of our people right here in this room I
19 recall him saying this was a long term strategic move.
20 We're excited about having a channel strategy and so on
21 and so forth. That was repeated not only to myself but
22 in front of the entire group -- the entire Semi-Conductor
23 Sales Group.

24 228. Q. When Mr. Terry indicated that in his view it
25 was a long term strategic move for Motorola, do you have

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1 any reason to believe now that he didn't believe that to
2 be true when he said it?

3 MR. BELLEW: Objection. You may answer the
4 question.

O

5 THE WITNESS: I will answer the question. Do I
6 have any reason now to think that he was not basically
7 saying the truth?

8 BY MR. PAPETTI:

9 229. Q. Correct?

10 A. I don't have any reason to believe that.

11 230. Q. Do you recall roughly when that meeting in
12 this Conference Room occurred with the Semi-Conductor
13 people -- where in the process that occurred?

14 A. I know it was white -- it was very cold out
15 there. That I do recall but that's it.

16 231. Q. But it's prior to a contract being signed?

17 A. I believe so. Let me retract that. I don't
18 know. I don't recall.

19 232. Q. So, it could have been after the contract was
20 signed or before the contract was signed?

21 A. I don't recall.

22 233. Q. Did Ms Kolasa who you were working on the
23 terms of the contract with ever tell you that you didn't
24 have to worry about the termination or expiration
25 provisions in the contract because she viewed it as a

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1 236. Q. Okay. Let me separate a couple of concepts.
2 Mr. Terry referring to you -- you're stating that
3 Motorola viewed this as a long term strategy? Is that
4 correct?

5 A. That is correct.

6 237. Q. Did he ever tell you though that you
7 shouldn't view the contract provision regarding
8 termination or expiration as binding?

9 MR. BELLEW: Objection.

O

10 MR. PAPETTI: Words to that effect?

11 THE WITNESS: He would have -- he told me, if I
12 can recall the specifics here, he told me not to worry
13 about it, whatever that means.

14 BY MR. PAPETTI:

15 238. Q. Did your -- at your company could you make
16 statement to another party not to worry about something
17 if Mr. Gibson had insisted upon putting it in a contract?

18 MR. BELLEW: Objection.

O

19 MR. PAPETTI: Would you have authority to do
20 that?

21 MR. BELLEW: Objection.

O

22 THE WITNESS: It depends what we're talking
23 about.

24 BY MR. PAPETTI:

25 239. Q. Fair enough. If Mr. Gibson had insisted on

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1 having a contract that ended in one year, absent being
2 separately renewed, would you have the ability to go out
3 and tell another party that -- the other party to the
4 contract not to worry about it?

5 MR. BELLEW: Objection.

O

6 THE WITNESS: Not without having discussed it
7 with the likes of Mr. Gibson prior to.

8 BY MR. PAPETTI:

9 240. Q. But if Mr. Gibson was okay with it, he would
10 just say change the provision? Correct?

11 MR. BELLEW: Objection.

O

12 THE WITNESS: I didn't understand the question.

13 BY MR. PAPETTI:

14 241. Q. Let me back up where I'm coming from. What
15 you're describing was there was a difference between
16 Motorola corporate and Mr. Terry in your view in terms of
17 whether or not that provision regarding expiration needed
18 to be in the contract? Correct?

19 A. Correct.

20 242. Q. Mr. Terry said don't worry about it. I think
21 this is a long term strategic decision ---

22 MR. BELLEW: Objection.

O

23 MR. PAPETTI: Is that fair?

24 THE WITNESS: He didn't say "he thought" -- he
25 was adamant.

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1 BY MR. PAPETTI:

2 243. Q. Okay, let me be fair. Mr. Terry told you
3 you're stating that don't worry, this is a long term
4 strategic decision. Don't worry about the automatic
5 renewal provision? Correct?

6 A. Correct.

7 244. Q. Okay. While Corporate was reporting to you
8 we can't take that provision out of the contract for
9 corporate purposes? Correct?

10 A. Correct.

11 MR. BELLEW: Objection.

O

12 BY MR. PAPETTI:

13 245. Q. So you had this decision to make at J-Squared
14 whether to trust Mr. Terry's assurances or not do the
15 contract because it had a provision in it you didn't
16 like? Correct?

17 A. Correct.

18 246. Q. You chose to sign a contract that contained
19 language you didn't like based on Mr. Terry's assurances
20 about Motorola being committed to this long term
21 strategy? Is that correct?

22 A. Correct.

23 247. Q. Anybody else make assurances similar to what
24 you've described than Mr. Terry?

25 A. I believe so but I cannot recall any

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1 A. I don't recall specifically time-line wise.

2 254. Q. Do you recall ever meeting with him face-to-
3 face or having discussions with him about any of these
4 contractual issues?

5 A. I don't recall.

6 255. Q. Did Mr. Terry ever indicate to you what he
7 meant by the term long term -- whether one year, 10
8 years, five years? I mean, how long did you feel Mr.
9 Terry was binding Motorola to in terms of a long term
10 relationship?

11 A. I can speculate but that would only be my
12 speculation.

13 256. Q. Well ---

14 A. I mean, I never stopped to think, what does
15 long term mean as we were going back and forth.

16 257. Q. Well, you knew there may be reasons in the
17 future for either J-Squared or Motorola to assess whether
18 the current contractual relationship needed to be
19 changed? Correct?

20 A. What does that mean?

21 258. Q. Whether say -- let's just take a year from
22 you know the contract. Whether one party or another was
23 losing a lot of money under the contract, it wouldn't be
24 unusual for one party or the other to say, hey we need to
25 take a look at our contractual relationship to make sure

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1 A. That's correct.

2 328. Q. One of your goals was to develop a Line Card
3 and Line Card Strategy which included adding five new
4 lines. Is that correct?

5 A. Yes, that was -- yes, correct.

6 329. Q. Was that achieved in 2003?

7 A. I don't believe it was. No.

8 330. Q. We talked about the building the staff and I
9 take it, since Motorola is your first big account in this
10 group, you wanted to do a good job for Motorola is what
11 the first one refers to?

12 A. We absolutely needed to execute for Motorola.
13 They were corner-stone to our strategy.

14 331. Q. And by corner-stone, what do you mean by
15 that?

16 A. They were -- we viewed Motorola as -- they
17 were a good way of establishing ourselves in the Systems
18 Space.

19 332. Q. Because they were a well known name or can
20 you put some flesh on that answer?

21 A. Because they were a well known name.

22 333. Q. Let's go to 1835 please? This is another
23 2003 Sales Forecast for the whole ESG Group -- I should
24 say another one -- it's not just Motorola even though I'm
25 not sure who else you had added by this time.

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1 A. It's definitely a disappointment because it
2 basically meant that we had to wait for the next cycle
3 for a number of accounts.

4 368. Q. How about limited demand creation from
5 distributors? What's your point there?

6 A. Yes. The point there is that again, Motorola
7 had a number of Distributors -- or their fulfilment
8 partners and the expectation was that they had certain
9 responsibilities with regards to developing accounts from
10 a technology standpoint, i.e. creating demand on behalf
11 of Motorola and the harsh reality was that there was
12 literally no demand creation activity coming out of
13 distribution that really -- the fulfilment entity -- that
14 was it.

15 369. Q. So this is Aero, Avnet, Tracan?

16 A. Correct.

17 370. Q. You had hoped that they would be a greater
18 partner, if you will, in helping develop additional
19 business down the line and they just weren't doing much
20 in terms of effort? Is that what you're suggesting?

21 A. That is what I'm suggesting.

22 371. Q. Let's go to 1871? Now we're getting into
23 revised Forecasts here?

24 A. Reality settles in.

25 372. Q. Reality settles in and for ESG the Forecast

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1 services to our account base. It ends up they could come
2 into the market place and sell their own products against
3 us and we discovered that after the fact, so ---

4 480. Q. You mean under the contract they had that
5 right?

6 A. They had the right because they resold Board
7 Level Products so we would introduce them to our Account
8 Base and they could go back and compete with us. It just
9 made no business sense so that relationship went south as
10 well.

11 481. Q. Did J-Squared terminate that relationship?

12 A. I don't believe we ever did but we never did
13 anything with it.

14 482. Q. How about SMA?

15 A. SMA is still a valid line for us.

16 483. Q. Then if you go about four lines down it says,
17 "Harris House Program turned over to J-Squared" and then
18 it looks like it says in parenthesis, "1.5 million plus"?

19 A. Yes.

20 484. Q. This is going back to that dialogue we saw
21 with Mr. Kaczor about you asking that Harris be taken off
22 the House Account List under the J-Squared contract with
23 Motorola?

24 A. Correct.

25 485. Q. That was something that Motorola offered to

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1 BY MR. PAPETTI:

2 507. Q. But from this \$43,000 fee you could roughly
3 extrapolate the total ESG Predicted Sales for the year?
4 Right?

5 A. Yes.

6 508. Q. And so what would be a fair approximation
7 from this figure?

8 A. If you reverse the math you're looking at
9 about 200 -- \$250,000 I guess. No, let me rephrase that.

10

11 509. Q. It's going to be more than that?

12 A. Yes, it's more than that. It's \$800,000.

13 510. Q. About \$850,000 or so?

14 A. Yes.

15 511. Q. And you had originally predicted \$3 million
16 in Motorola sales and \$4 million in other ESG sales for
17 the year? Correct?

18 A. What are we alluding to?

19 512. Q. Let's go back to Exhibit 114 where we'd seen
20 the ESG Forecast for the year -- I'm looking for the
21 page?

22 A. Yes.

23 513. Q. Just give me a sec -- how about Page 1836?

24 A. Yes.

25 514. Q. So originally you were forecasting \$7 million

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1 in sales for that year? Correct?

2 A. Based on what I'm seeing here, that seems to
3 be the number forecasted for 2003.

4 515. Q. And of that \$7 million, \$3 million was
5 projected for Motorola for the year? Correct?

6 A. Correct.

7 516. Q. As it turns out, for combined there's about
8 \$860,000 for both new business and the Motorola Account?
9 Correct?

10 A. Correct. That's in -- that's in -- where are
11 we -- in July here?

12 517. Q. Yes, we're in July? By July it's been down
13 graded to that?

14 A. So six months in -- six months in and if you
15 recall the revenue numbers that Mr. Gibson put together,
16 I mean, Q1 was dismal to say the least. I think we
17 brought in total \$250.00. I mean, no kidding. This is
18 July so this is with basically nothing in Q1 and four or
19 \$5,000 in April, May. So I can understand that in the
20 July time-frame, things were kind of bleak based on what
21 we knew.

22 518. Q. How about 1949? There's a forecasting
23 comment on here? I think -- you didn't write this slide
24 did you?

25 A. Correct.

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1 Correct?

2 A. Yes.

3 533. Q. That's Exhibit 134. It looks as if you and
4 Mr. Gibson are talking about logistics and subject
5 matters for a meeting with a Steve Machernis of Motorola?
6 Is that correct?

7 A. That seems to be correct.

8 534. Q. Do you remember Mr. Machernis coming up and
9 meeting with you all -- I guess it would have been at the
10 very beginning of August of 2003?

11 A. Yes, I do.

12 535. Q. Was that meeting here in Ottawa?

13 A. Yes, it was.

14 536. Q. This is some ideas you sent to Mr. Gibson for
15 ideas to discuss with Mr. Machernis?

16 A. Let me read this.

17 537. Q. Sure?

18 A. Okay.

19 538. Q. Do you recall why a meeting had been
20 scheduled with Mr. Machernis of Motorola?

21 A. I think this was called by Motorola.

22 539. Q. What was your understanding of the purpose of
23 the meeting?

24 A. We, at the time, Ed Kaczor, for instance and
25 myself, were having these discussions as to how to move

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1 forward -- can we change the model as alluded to in the
2 latter part of my e-mail there and we viewed this as an
3 opportunity to get Steve in front of us or to come down,
4 get him a bit of a course on organization and so forth
5 and give him a feel, even though Ed was reporting into
6 Steve -- Steve Machernis that is on a regular basis --
7 give him a feel as to where we felt the opportunities and
8 the overall activity was going within the market place,
9 and also again, as I alluded to, to discuss specifically
10 or to throw out some ideas as to, you know, how do we
11 move forward from a model standpoint -- VAR,
12 distribution, and so on and so forth.

13 540. Q. How might the relationship be adjusted so
14 that J-Squared felt it was making a reasonable rate of
15 return? Is that fair?

16 A. A reasonable rate of return is fair, and also
17 for Motorola to keep their demand creation partner on
18 board. That's why Ed Kaczor was involved. We had -- we
19 both had a stake in this.

20 541. Q. Okay, so you mean to keep their demand
21 creation partner on board? The demand creation partner
22 was J-Squared? Correct?

23 A. Correct.

24 542. Q. Okay and so you and Mr. Kaczor were
25 interested in Mr. Machernis understanding the concerns

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1 that J-Squared had about the relationship? Is that fair?

2 A. When you say concerns about the relationship,
3 we had concerns about the financial situation we were in.
4 I don't think there were any issues at the time as to
5 whether or not we wanted to part ways with Motorola. I
6 mean, it had to make business sense, that being said --
7 so that we were definitely concerned about.

8 543. Q. I didn't mean to put words in your mouth --
9 that's why I asked?

10 A. Okay, fair enough.

11 544. Q. And what you're proposing here at the bottom
12 half of the e-mail is sort of an adjustment of the
13 commission structure -- is that a fair way of
14 characterizing it?

15 A. More so, if you recall I used the term before
16 "Total Available Margin Dollars" which would include Rep
17 Commission, Distribution Margin, so yes -- that's -- I'm
18 proposing here a means to basically just split this --
19 split the pie differently based on who is doing the work
20 and who is investing up front and so forth.

21 545. Q. So you were suggesting to Motorola that they
22 pay their Distributors less and the Reps more?

23 A. Correct.

24 546. Q. And the Distributors at the time were Aero,
25 Avnet and Tracan?

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1 A. That is correct.

2 547. Q. Then the second to last paragraph, you say,
3 you're talking about your proposal and you say,

4 "The repercussions to MCG from an actual
5 numbers perspective is limited to none
6 since Distees..."

7 Do you mean Distributors?

8 A. Correct.

9 548. Q. "... can't switch board level vendors as
10 with Semis Components."

11 What did you mean by that?

12 A. Okay, distribution have competing lines so in
13 the Semi-Conductor space it's relatively easy to fulfil
14 Vendor A or Vendor B -- they are what we call pin for pin
15 compatible -- form, fit, function and compatible.

16 In the Board level space there are too many
17 issues from a software driver standpoint and overall
18 application standpoint, so my point here was if
19 distribution were to not take this lightly and want to
20 switch the business over to a competing line, it would be
21 extremely difficult to do so versus the Semi-Conductor
22 space.

23 549. Q. Then in the last paragraph, you say,

24 "This would not preclude us..."

25 us being I assume J-Squared?

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1 A. Correct.

2 550. Q. "...from migrating to a VAR role when we are
3 ready (financially\conceptually) to go
4 there."

5 What did you mean by ready financially to go there?

6 A. Okay. VAR stands for value add Reseller.
7 The value add part of VAR means that we can offer
8 services, either integration services and so on and so
9 forth which means we would have required an engineering
10 team of some sort, individual, person, group, team --
11 whatever. That's what that means. That's what I'm
12 alluding to.

13 551. Q. And so there would have to be a -- there
14 would be a financial cost associated with becoming a VAR?

15 A. There would be a financial cost associated to
16 it. My vision here was that it would allow us to move up
17 the food chain with regards to adding value to our
18 customer/manufacturers.

19 552. Q. Is this your writing at the top of the page?

20 A. That is my writing.

21 553. Q. Does it pertain to anything other than what's
22 on this e-mail? I mean, it looks to me like
23 it ---

24 A. Pretty much rehashes ---

25 554. Q. Yes?

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1 A. September -- when was Steve Machernis coming
2 out.

3 570. Q. Looked like the first week of August?

4 A. So that was past that. That was after our
5 meeting with Machernis.

6 571. Q. This is at least about six weeks later?

7 A. Okay. Why would I have created that? Wasn't
8 there an up-coming Boston meeting with Mr. Parslow?

9 572. Q. I believe there was an up-coming meeting or
10 at least an up-coming event in Boston?

11 A. So this could have been the reason why this
12 was put together.

13 573. Q. Okay, so let me back up just a second. Keep
14 this in front of you. The meeting with Mr. Machernis --
15 what can you tell me about the meeting? Did it go as you
16 had planned it would go?

17 A. It was a very positive meeting.

18 574. Q. Okay so there were discussions about the
19 sales efforts? Correct?

20 A. That was addressed. We did the funnel
21 overview and so forth and that was healthy. We talked
22 about again the model first and more so which was
23 obviously our key topic from an agenda standpoint from
24 our perspective. It was a positive meeting.

25 575. Q. Did Mr. Machernis make any promises or

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1 THE WITNESS: I would have to go back to what I
2 knew at the time.

3 BY MR. PAPETTI:

4 724. Q. Well I don't know what you knew at the time?

5 A. Well, that makes two of us at this point.

6 725. Q. When you got this, do you recall having any
7 reaction that this is an unreasonable analysis?

8 A. Trying to remember -- I don't recall.

9 726. Q. So as of September 29th, 2003 -- Mr. Gibson,
10 with some input from you and perhaps others is doing an
11 analysis that concludes that if the commission rate
12 that's in the current Motorola Agreement was kept in
13 place J-Squared would continue to lose a substantial
14 amount of money under this contract? Correct?

15 A. Assuming Motorola -- the answer is correct,
16 yes.

17 727. Q. Could you give the Witness please Exhibit
18 119?

19 A. I don't have it.

20 MR. BELLEW: Exhibit 119 is a one-pager -- it may
21 be tied up. That's what you're looking at?

22 MR. PAPETTI: Correct.

23 BY MR. PAPETTI:

24 728. Q. This is an e-mail you wrote to Mr. Gibson and
25 Mr. Nykoluk on October 15th, 2003? Correct?

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1 A. Correct.

2 729. Q. And it's an up-date based on a conversation
3 you had with Mr. Machernis?

4 A. That is correct.

5 730. Q. And he reports to you that Motorola's been
6 having multiple conversations related to J-Squared Canada
7 and overall channel strategies at MCG? Is that correct?

8 A. That seems to be correct, yes.

9 731. Q. And channel strategies you understand to mean
10 how they sell the product?

11 A. Through a third party, yes.

12 732. Q. Through third parties?

13 A. Yes.

14 733. Q. That would include Distributors and Reps and
15 if there were any, VAR's?

16 A. Yes.

17 734. Q. Do you recall having this actual conversation
18 with Mr. Machernis?

19 A. I recall a conversation with Mr. Machernis.
20 I recall a number of conversations with Mr. Machernis
21 along these lines.

22 735. Q. So Mr. Machernis was having some
23 communication with you about the concerns and issues you
24 raised? Correct?

25 A. Yes.

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1 A. I mean, if we spend half our time on a given
2 line, that line has got to bring in half of the revenue
3 in order to make business sense.

4 748. Q. So mind share is a term you meant for how
5 much time you're spending?

6 A. Hours, cycles, yes. Training is part of
7 that.

8 749. Q. The next paragraph, it says,
9 "I did a cost revenue analysis for next CY..."
10 Is that calendar year?

11 A. That is calendar year.

12 750. Q. "...for next calendar year and even under
13 the best scenario, i.e. 100 percent POS
14 growth plus Harris..."

15 That means the Harris Account that had been transferred
16 over to J-Squared? Is that correct?

17 A. Yes, yes.

18 751. Q. "I'm still a ways off from covering my costs
19 on MCG. I provisioned for a Toronto
20 Prime in the 2004 Cost Estimates. I know
21 you're keen on this..."

22 and then you go on to conclude,

23 "You will agree that this is fairly optimistic
24 and a strong Canadian dollar doesn't help
25 either."

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1 Correct?

2 A. Yes.

3 752. Q. Was that accurate what you were telling Mr.
4 Machernis -- that you had done a cost revenue analysis
5 for the next calendar year and even under the best
6 scenario you still weren't able to cover your costs?

7 A. I mean that probably relates to the numbers
8 that Jeff put together.

9 753. Q. Okay, so but you believed it to be accurate
10 when you sent it to Mr. Machernis?

11 A. You mean this e-mail?

12 754. Q. That particular line in particular? I'm not
13 asking you if you were trying to mislead him but when you
14 told him I did a cost revenue analysis for the next
15 calendar year?

16 A. I mean the end result of us having again an
17 issue on the time we were spending on Motorola -- I mean,
18 that's the final statement here and the answer is
19 definitely yes.

20 755. Q. The part I was asking about is the analysis
21 that was done -- whether it was your analysis or a
22 separate analysis that you contributed to with Mr.
23 Gibson, for the next calendar year, even assuming 100
24 percent POS Growth, you were still a ways off from
25 covering your costs?

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1 necessarily going to be much higher in 2004?

2 A. I mean, there was -- we were doing some good
3 things in the market place but again design cycles and
4 buy cycles being what they are, right? I mean, and
5 that's probably where I come to the conclusion that it
6 would have been optimistic even though we were making
7 headway from an account standpoint with regards to demand
8 creation and so forth, design cycles being what they are,
9 you can design something in Q4, 2003 for instance or 2003
10 and not see revenue until the latter part of 2004.

11 763. Q. Right and this is talking about actual sales
12 revenue? Correct?

13 A. Right. This is talking about -- this is
14 talking about sales revenue, yes, not revenue to J-
15 Squared.

16 764. Q. The next paragraph, it reads,
17 "Under the present deal, it's pretty obvious we
18 cannot continue to spend an equivalent amount of
19 time on MCG. We just can't afford it."

20 Were you sincere about that when you wrote that to Mr.
21 Machernis?

22 A. Absolutely.

23 765. Q. And the current amount of time was a big
24 chunk of your time? Correct?

25 A. Yes.

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1 766. Q. And a big chunk of Mr. Blomme's time in
2 Western Canada? Correct?

3 A. Correct.

4 767. Q. At this time, it doesn't appear there was a
5 Toronto Prime person in place though yet? Correct?

6 A. It doesn't appear that there was.

7 768. Q. Then you make some suggestions. The first
8 suggestion is what about putting -- well you'd better
9 explain it to me. What is a Demand Creation Distributor
10 and then you suggest a retainer amount? What did you
11 mean by a Demand Creation Distributor?

12 A. Actually a Distributor that goes out and
13 creates demand creation on behalf of your product versus
14 sitting back and waiting for the purchase orders coming
15 in.

16 769. Q. Which is what you were -- had been describing
17 Avnet, Tracan and Aero previously? Correct?

18 A. Yes.

19 770. Q. This is that retainer concept I asked you
20 about before a little bit. You're suggesting that J-
21 Squared be put on a \$15,000 a month retainer for the next
22 18 months?

23 A. Yes.

24 771. Q. And -- but this was not something that was
25 standard in J-Squared's practice at the time -- a

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1 retainer?

2 A. No, no.

3 772. Q. It was a creative idea you had?

4 MR. BELLEW: Objection.

O

5 THE WITNESS: That was an idea we had.

6 BY MR. PAPETTI:

7 773. Q. Then Option 2, why don't you explain what
8 Option 2 is please?

9 A. We're back to how do we split the available
10 commission/gross margin dollars. All right? We're back
11 to how do we adjust the contract as it stands to allow us
12 to continue moving forward with Motorola with the same
13 amount of cycles spent on that line.

14 774. Q. What do you mean by cycles? Effort?

15 A. Effort, time -- again cycles would be time,
16 effort and so on. Out of 40 hours you spend so many
17 hours on you know, and so forth. So we're back to how do
18 we -- how do we make sense from a business standpoint.

19 I mean, the intent is to -- we believed in
20 Motorola. There was no -- from a technology standpoint
21 there was never any doubt about us -- about that, that
22 is. My point here is that we were losing our shirt while
23 we were doing it. So how do we creatively --
24 understanding that there's this contract in place.

25 This had been the conversations between the likes

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1 amount of revenue? Correct?

2 MR. BELLEW: Objection.

O

3 THE WITNESS: No, my data point is that we were
4 told there was a run rate piece -- the Canadian market
5 had a two to \$3 million run rate. That is my data point.

6

7 BY MR. PAPETTI:

8 886. Q. And the figures you were given in writing
9 were the \$3.8 something million for 2001 and the \$900,000
10 through three quarters in 2002? Correct?

11 A. Those are the figures we got.

12 887. Q. And you're saying verbally somebody made a
13 comment about two to \$3 million? Is that what you're
14 saying?

15 A. That is what I'm saying.

16 888. Q. Who told you that it was two to \$3 million?

17 A. I said that was an internal communication
18 that I would have gotten from my management.

19 889. Q. Okay, so internally ---

20 A. I was not -- okay, sorry, go ahead.

21 890. Q. Internally, J-Squared had an assumption of
22 two to \$3 million? Correct?

23 A. Correct.

24 MR. BELLEW: Objection.

O

25 BY MR. PAPETTI:

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1 901. Q. What are you looking at? The 2002 year to
2 date sales?

3 MR. BELLEW: He's looking at 130 and I guess 129.

4 MR. PAPETTI: At 130.

5 MR. BELLEW: 130 and 131.

6 THE WITNESS: Okay I want to see -- where's the
7 \$900,000 three Quarters in?

8 MR. PAPETTI: I think it's the last page of 131?

9 THE WITNESS: Okay.

10 BY MR. PAPETTI:

11 902. Q. It's reported in the 2001 figure but I don't
12 see it in the 2002 figures?

13 A. Yes. I would challenge that it was partially
14 recorded.

15 903. Q. Okay, what's that got to do with Exhibit 127?

16 A. I'm just saying that when we were told it was
17 a two to \$3 million number that was with Raytheon in.
18 This \$900,000 number three quarters in is without
19 Raytheon so Raytheon is out. There are numbers missing
20 here.

21 904. Q. Okay, so the point is the \$900,000 figure
22 Motorola gave you may not have accurately represented --
23 the market may have actually been bigger for the
24 territory that you were assigned?

25 A. Along the lines of two to \$3 million.

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1 905. Q. Sure?

2 A. Two -- \$3 million dollars.

3 906. Q. But Motorola wasn't over-estimating the
4 market in the written data it gave you? Is that fair?
5 If anything, they were under-estimating their sales year
6 to date?

7 A. Which sales? Which report are we talking
8 about?

9 907. Q. In any of the written reports they gave you
10 that had the \$900,000 figure, they're not over-stated in
11 your view, they may be understated?

12 MR. BELLEW: Objection.

O

13 THE WITNESS: Under-stated, over-stated -- I mean
14 the numbers -- let me think about that. Do we have an
15 answer to that.

16 BY MR. PAPETTI:

17 908. Q. As I understood what you're saying, you're
18 saying Raytheon should be on the list and it's not?
19 Correct?

20 A. Yes.

21 909. Q. And if Raytheon is on the list ostensibly the
22 figure would be figure for the actual POS dollars in the
23 whole market? Correct?

24 A. Correct.

25 910. Q. Okay, so what you're saying is the \$900,000

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1 figure that I keep raising may accurately reflect what's
2 on the paper but the market itself, the sales in the
3 market itself may have actually been higher?

4 MR. BELLEW: Objection. Objection.

O

5 THE WITNESS: Correct. It would certainly be in
6 line with being told that the number is two to \$3 million
7 because Raytheon would have been part of that two to \$3
8 million. It just so happens that in this report it
9 wasn't recorded and if I remember why, this business was
10 fulfilled through Avnet and it was shipped to Raytheon's
11 broker in New York.

12 BY MR. PAPETTI:

13 911. Q. I've got a total document on that we'll get
14 to in a minute?

15 A. It just rung a bell there.

16 912. Q. What I'm trying to establish with you is
17 simply if anything the written document you received from
18 Motorola about the POS activity in the territory before
19 you signed the contract, if anything the written data was
20 too low, not too high is what you're trying to tell me?

21 A. Before we signed the contract -- this is
22 before we signed the contract? Correct?

23 913. Q. Yes?

24 A. It was too low, not too high is your
25 question?

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1 as long as it has. Why don't we all stop for just a
2 minute and I'll go and find out if I'm close to done and
3 she'll tell me.

4 MR. BELLEW: Good idea.

5 MR. COURVILLE: The time is 12:53:57 and we're
6 going off the Record.

7 (SHORT RECESS)

8 MR. COURVILLE: It is now 13:08:47 and we're back
9 on the Record.

10 BY MR. PAPETTI:

11 927. Q. Have you had a chance to look through Exhibit
12 120, Mr. Langlois?

13 A. Yes, I have.

14 928. Q. Okay, and this is a string of e-mails -- well
15 I guess some of it's between you and Motorola people and
16 some of it's internal at J-Squared? Is that correct?

17 A. That's correct.

18 929. Q. And in this string of e-mails Mr. Kaczor
19 tells you that Steve Machernis wants to set up a
20 quarterly business review with J-Squared before the end
21 of November? Is that correct?

22 A. That is correct.

23 930. Q. And to talk about sales activity and "any
24 other issues"?

25 A. Correct.

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1 931. Q. And go to the second page -- 1652. Mr.
2 Kaczor sends this to you on October 27th at 10:01 AM?
3 Correct?

4 A. Yes.

5 932. Q. I guess you waited 21 minutes to forward it
6 but you forwarded it internally to Mr. Gibson and Mr.
7 Nykoluk that morning? Correct?

8 A. Correct.

9 933. Q. And your reaction is I feel like telling MCG
10 to go pound sand. Let's discuss?

11 A. Correct.

12 934. Q. What were you trying to convey to Mr. Gibson
13 and Mr. Nykoluk?

14 A. That one is polite. It could have been a lot
15 worse. I was conveying to my management that to spend
16 time in getting ready for a review and so forth and
17 pulling sales guys out of the market and so on and so
18 forth, would be at the very least counter-productive at
19 this point in time.

20 935. Q. Why would it have been counter-productive at
21 this point in time?

22 A. Because we were busy trying to rummage up
23 sales and design wins.

24 936. Q. So you report to your superiors that you feel
25 like telling Motorola to go pound sand and then you say

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1 1023. Q. ESG wise, okay. ESG wise in the South East
2 is now over \$300,000 a year?

3 A. Correct.

4 1024. Q. Okay and when did that become a substantial
5 source of business? The ESG Work in South East?

6 A. It would have been -- well throughout --
7 definitely throughout 2005. That goes without saying.
8 We created the group. I would need to go back and check
9 but the group got created I believe in the July time
10 frame.

11 1025. Q. July?

12 A. Of '05 -- hold on -- '05? '04? No, '04.

13 1026. Q. July, '04?

14 A. We got terminated by Motorola in '04.

15 1027. Q. Right?

16 A. So we signed on a line in the South East.
17 I'm trying to remember when it was. Was it the latter
18 part of '04. I believe it was the latter part of '04.
19 So the group would basically have been up and going
20 throughout 2005.

21 1028. Q. And what's that line that's providing the
22 bulk of that revenue?

23 A. The bulk of it would be GE Fanuc.

24 1029. Q. Say it again?

25 A. GE as in General Electric -- Fanuc -- F-A-N-

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1 U-C.

2 1030. Q. So it's a GE Subsidiary?

3 A. It is a GE Subsidiary.

4 1031. Q. If you go to the next page ---

5 A. Which page was that now?

6 1032. Q. Page 1882?

7 A. 1882.

8 1033. Q. Would the reference to GE there have anything
9 to do with what we've been talking about?

10 A. That is the GE in Canada.

11 1034. Q. And ESG is not representing -- you're not
12 doing ESG Rep work in Canada for GE, are you?

13 A. Yes, we are.

14 1035. Q. You are for GE?

15 A. Yes, we are, yes.

16 1036. Q. When did that start?

17 A. After the termination with Motorola.

18 1037. Q. Do you know when?

19 A. I think it was May.

20 1038. Q. So after Motorola was -- the relationship
21 with Motorola ended?

22 A. Yes.

23 1039. Q. Putting aside words like termination or non-
24 renewal or anything -- after the relationship with
25 Motorola ended, J-Squared signed up a Distributor --